

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES KING,

Plaintiff,

v.

SGT. MYERS, et al.,

Defendants.

:

: Civil Action No. 13-cv-2186

:

:

: Judge Rambo

:

:

: **Filed Via ECF**

:

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: **JURY TRIAL DEMANDED**

STATEMENT OF MATERIAL FACTS

1. At the time of the incident, Inmate Mitchell was a general population inmate who was being escorted to the Restricted Housing Unit due to Misconduct B433692, which he received for a mutual fight in the prison's general population yard. Exhibit B, ¶¶ 7-8; Exhibit E.

2. Sgt. Myers had been assigned to run the general population yard on that day, therefore Myers was involved in escorting Mitchell from the general population yard to the RHU. Exhibit B ¶¶ 2, 4.
3. Since Myers was not assigned to the RHU on the day in question, he was not involved in the decision on where to house Mitchell. Exhibit B, ¶ 8.
4. Myers and the other escorting officers were told which cell to bring Mitchell to. Exhibit B ¶¶ 3, 8; Exhibit A.
5. The escort of Inmate Mitchell was videotaped. The video footage also depicts the activity outside the cell before, during, and after the assault. *Id.* Exhibit B ¶ 5; Exhibit A.
6. During the debriefing at the end of the video, all of the officers involved in the escort were identified on the video: Lt. Allison, Sgt. Myers, and Officer Morgan. Officer Kuzman is identified as the camera man. Exhibit A (at 5:04:40 of the video).
7. The escort began on the K-Block at the time marked on the camera as 4:42:56. Exhibit A.
8. Mitchell is escorted through a hallway, and outside in the prison yard. Mitchell is silent during the escort. Mitchell arrives in another building at approximately 4:46:37. Exhibit A.
9. At 4:47:21, Mitchell is placed in a strip search cage. Exhibit A.

10. From K-Block to the strip search cage, Mitchell was completely silent. Exhibit A.

11. At 4:49 into the video, Mitchel was strip searched. Exhibit A.

12. After the strip search, Sgt. Myers read Mitchell a list of questions designed to determine whether Mitchell was a suicide risk. Exhibit A.

13. Mitchell answered no to all questions. Exhibit A.

14. At 4:51:50 in the video, another officer, over the radio, directs Lt. Allison to transfer Mitchell to cell B22. Exhibit A.

15. Neither Mitchell nor King had a “Z Code” which required them to be single-celled. Exhibit D, Vogt declaration, ¶ 3.

16. Mitchell never threatened to harm a cellmate or refused to be double-celled. Exhibit A. Exhibit D, 5.

17. At 4:52:24 in the video, Mitchell is removed from the strip search cell and escorted towards cell B22.

18. Mitchell was silent during his escort from the strip search cage to cell B22.

19. The escorting officers open the door at 4:53:47, and Mitchell is placed in the cell at 4:53:54.

20. The handcuffs are removed from Mitchell at 4:54:03.

21. Sgt. Myers yells at 4:54:06 and states “We got a fight in here” and immediately calls the problem to the attention of Lt. Allison, the ranking officer.

Exhibit A.

22. The RHU bubble officers have exclusive control over the opening and closing of the doors in the RHU through the control devices in the RHU bubble. Exhibit B

¶ 13.

23. Myers was not assigned to the RHU that day, and therefore, the radio he was equipped with did not have the capabilities of communicating with the RHU bubble. Exhibit B, ¶ 14.

24. Lt. Allison arrives at the door at 4:54:13. Exhibit A.

25. The escorting officers command Mitchell to stop fighting at least three times from 4:54:15- 4:54:20. Exhibit A.

26. Allison appears to have a short conversation with Mitchell through the cell door from 4:54:23-4:54:29. Exhibit A.

27. The officers open the door at 4:54:35. Exhibit A.

28. After the door opens, the officers immediately secure Mitchell on the floor. Exhibit A.

29. At the end of the video, the officers conduct a debriefing as to what occurred. Exhibit A.

30. Neither Officer Clark nor Officer Vogt were involved in any manner in the escort of Inmate Mitchell. Exhibit D, ¶ 6; Exhibit C, ¶ 4; Exhibit A.

31. Vogt was not present when the assault occurred, and therefore had no opportunity to intervene. Exhibit D, ¶¶ 7-8; Exhibit A.

32. Clark was not involved in the decision to house Mitchell and King together. Exhibit C, ¶ 3.

33. Clark was not present when the assault began, but responded when the assault was in progress. Exhibit C, ¶ 6.

34. Clark arrived at the door just at the time the door opened. Exhibit C, ¶ 7.

35. Clark's only role was escorting the Plaintiff to medical as the other officers restrained Mitchell. Exhibit C, ¶¶ 8-9.

Respectfully submitted,

Office of General Counsel

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Dated: August 29, 2014

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CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. Mail a true and correct copy of the *Statement of Material Facts* to be served upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Charles King, CN4421
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866-1020

s/ Rose A. White

Rose A. White

Clerk Typist II

Pennsylvania Department of Corrections

Office of Chief Counsel

1920 Technology Parkway

Mechanicsburg, PA 17050

Dated: August 29, 2014